THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO

W.P.NO.18077 OF 2000

Dt:27.07.2005

Between:

V.K.Kamalavathi

.. Petitioner

and

The Malkajgiri Municipality and others

.. Respondents

THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO

W.P.NO.18077 OF 2000

ORDER:

This writ petition is filed seeking *mandamus* declaring the notice issued by the first respondent, dated 18.09.2000, as illegal and arbitrary and consequentially restraining the respondents from interfering with the structures/construction over the plot No.156 admeasuring 355.56 sq. yards, with H.No.17-175 in sy.Nos. 874/1, 2, 876, 877, 883 and 884 situated at Radhakrishen Nagar colony, Malkajgiri municipality, R.R.District.

The first petitioner claims to be the owner and possessor of the above said property. He further claims that at the request of the first respondent, he surrendered 55 sq. yards of land, for the purpose of road widening, without claiming any compensation. The Government issued G.O.Ms.No.15 M.A., Municipal Administration & Urban Development (M1) Department, dated 15.01.1998, to facilitate construction of houses by the land owners, whose land/house is affected in road widening. While so, the case of the first petitioner is that he approached the first respondent for grant of permission to demolish the remaining existing old structures and for grant of permission to raise a building and accordingly paid a sum of Rs.30,646/- towards betterment charges, building permission etc., on 23.03.2000. He alleges that the first respondent neither approved nor rejected the plan within the stipulated time of 60 days, as per the provisions of the Municipalities Act. Therefore, the first petitioner commenced the construction, as per the deemed approved plan. While the matter stood thus, the officials of the first respondent visited the house of the first petitioner on 09.06.2000 and demanded him to remove the existing structures and to stop the further construction. Hence, he filed O.S.No.540 of 2000 in the Court of the Principal Junior Civil Judge, North & East, Ranga Reddy district and obtained order of temporary injunction restraining the first respondent and its men from demolishing the constructions in question. The grievance of the first petitioner is that at the instance of the second respondent, who is the Chairman of the Municipal Council, the first

respondent issued the impugned notice directing the petitioner to stop further construction and remove the structures, which were made after 19.06.2000. Hence, the first petitioner filed this writ petition seeking necessary directions to the first respondent in this regard.

During the pendency of the writ petition, the first petitioner died and the second petitioner was brought on record as his legal representative, in view of the fact that she purchased the property in question from his family members.

No counter-affidavit has been filed by the respondents.

Heard the learned counsel for the petitioners.

From a perusal of the material available on record, it is clear that the Munsif Magistrate, East and North, R.R.District granted interim injunction restraining the first respondent and its men from demolishing the structures in question. The limited grievance of the petitioners is that despite the order of temporary injunction, the first respondent issued the impugned notice demanding him to stop the further construction and remove the structures, which were made after 19.06.2000. Though the first respondent issued the notice intimating the first petitioner that he carried the construction work subsequent to the injunction orders and directing him to stop the further construction and remove the structures which were made after 19.06.2000, he did not submit his explanation. In such view of the matter, without going into the merits of the case, this Court is of the view that the first petitioner instead of filing this writ petition, should have approached the first respondent and submitted his explanation to its satisfaction.

Hence, the writ petition is disposed of with a direction to the second petitioner to submit her explanation to the first respondent within two weeks from the date of receipt of a copy of this order. In such an event, the first respondent is directed to pass appropriate orders, after giving opportunity to the petitioner, in accordance with law, within eight weeks thereafter. Till such time, the respondents are directed not to take any coercive steps with regard to the demolition of the structures raised by the first petitioner, after 19.06.2000. There shall be no order as to costs.

27.07.2005

ksld